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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MERCK SHARP & DOHME CORP., Petitioner,

V.

GENENTECH, INC. AND CITY OF HOPE,
Patent Owners

Case IPR2016-01373 Patent 6,331,415

PATENT OWNERS' PRELIMINARY RESPONSE



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В.			erck Has Not Shown A Reasonable Likelihood Of Success On ny Proposed Ground.	33
	1.		Each proposed ground should be denied because Merck has presented no new arguments to overcome Axel's previously-determined deficiencies.	35
		a)	Axel does not disclose co-expression of multiple different eukaryotic genes.	35
		b)	Axel's generic reference to "antibodies" provides no guidance on how to make an antibody	38
	2.		Ground 1: Claims 1, 3-4, 11-12, 14-17, 19, and 33 would not have been obvious over the Mulligan papers in combination with Axel.	39
		a)	A person of ordinary skill would not have combined the Mulligan papers with Axel.	45
		b)	A person of ordinary skill would have had no reasonable expectation of success given the uncertainties surrounding antibody production.	46
		c)	Axel does not disclose the recovery and assembly of functional antibodies.	48
		d)	The invention of the Cabilly '415 patent would not have been obvious to try.	49
	3.		Ground 2: Claims 1, 3-4, 11-12, 14-17, 19, and 33 would not have been obvious over the Mulligan papers in combination with Axel and in further view of the Nobel article	51



	4.	Ground 3: Claims 1, 3-4, 11-12, 14-17, 19, and 33 would not have been obvious over the Mulligan papers in combination with Axel in further view of Builder.	.55
	5.	Ground 4: Claims 1-2, 11-12, 14, 18-20, and 33 would not have been obvious over Southern in combination with Axel.	.56
		a) Southern does not disclose the co-expression of antibody heavy and light chains in a single host cell	.56
		b) A person of ordinary skill would not have combined Southern with Axel.	.58
		c) Merck's remaining arguments fail for the same reasons addressed with respect to Ground 1	.59
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